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EXAMINER

GRAYSAY, TAMARA L

ART UNIT PAPER NUMBER

3623

DATE MAILED: 11/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/784,752

Applicant(s)

WELLENSTEIN, CARL J. 

Examiner

Tamara L. Graysay

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12 Apr 2001 (4pgs).
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Preliminary Matters***

1. The preliminary amendment filed 13 August 2001, has been entered; however, the attempt to incorporate subject matter into this application by reference to provisional application 60/252292 is improper because the incorporation by reference statement was not presented upon filing of the application. MPEP 201.11.III.F. reads in-part as follows:

An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (see 35 U.S.C. 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim after the filing date of the application, the amendment would not be proper. When a benefit claim is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application unless an incorporation by reference statement of the prior application was presented upon filing of the application. See *Dart Indus. v. Banner*, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980).

The incorporation by reference must be deleted in response to this office action.

### ***Information Disclosure Statement***

2. The information disclosure statement filed 12 April 2001 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

In the present application, the information cited under Other Documents on the form PTO-1449 and cited on the three-page List of Career-Related Websites has been lined through as not considered by the examiner because the information disclosure statement lacks a legible copy of each publication or that portion which caused it to be listed.

***Oath/Declaration***

3. The oath or declaration filed 23 April 2001 has been received. The examiner notes that although the line designated for the post office or mailing address of the applicant is blank, the residence includes a street, city, state, and ZIP code designation. Therefore, the information provided for the residence will be noted as applicant's mailing address. If applicant's mailing address is not the same as the residence, then a statement over applicant's signature providing a complete post office address is required.

***Drawings***

4. The drawings are objected to because of the following:
- a. Fig.1, the text font is too small (37 CFR 1.84(p)(3)); the upper legend SYSTEM 100 is improper (37 CFR 1.84(o)); and, reference character 100 lacks the required lead line or underline (37 CFR 1.84(q)).
  - b. Fig.2, the text font is too small (37 CFR 1.84(p)(3)); the gray shading is objectionable because it does not aid in understanding the invention and reduces legibility (37 CFR 1.84(m)); and, solid black shading is not permitted (37 CFR 1.84(m)).
  - c. Fig.3, the text font is too small (37 CFR 1.84(p)(3)); the gray shading is objectionable because it does not aid in understanding the invention and reduces legibility (37 CFR 1.84(m)); and, solid black shading is not permitted (37 CFR 1.84(m)).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the

Art Unit: 3623

renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

5. The disclosure is objected to because of the following informalities:
- a. P.12, L.17, Figure 4 should be Figure 3.
  - b. Appendix 1, the gray shading is objectionable because it does not aid in understanding of the invention and makes the text difficult to read.
  - c. Appendix 2, the gray shading is objectionable because it does not aid in understanding of the invention and makes the text difficult to read.
  - d. Appendix 3, the gray shading is objectionable because it does not aid in understanding of the invention and makes the text difficult to read.
  - e. Appendix 4, the gray shading is objectionable because it does not aid in understanding of the invention and makes the text difficult to read.

Appropriate correction is required.

6. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

Art Unit: 3623

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 1-11 are rejected under 35 U.S.C. 101 because the claimed invention is directed to nonstatutory subject matter.

*a. Claims 1-6*

- i. The system claims 1-6 are drawn to software, i.e., functional descriptive material, *per se* insofar as the recited data structure is not claimed as embodied in computer-readable media and/or the recited computer programs do not define any structural and functional interrelationships between the computer program and other structure that would permit the computer program's functionality to be realized. The claimed invention as a whole is directed to a functional description of the individual components *per se* without an otherwise statutory manufacture or machine. Therefore, claims 1-6 are directed to nonstatutory subject matter.
- ii. The system claims 1-6 include a resource component. The scope of the resource component is disclosed at page 7, lines 10-16, as three possibilities: an automated process, a human being, or combination of automated processes and human beings. The broadest reasonable interpretation of the claimed invention

Art Unit: 3623

would, therefore, be directed to nonstatutory subject matter because it encompasses a human being.

iii. If, in the alternative, claims 1-6 are interpreted as being drawn to a process, as discussed in the 35 U.S.C. 112, second paragraph, indefiniteness rejection below, then the claims are directed to nonstatutory subject matter.

The basis of this process claim rejection is set forth in a two-prong test: (1) whether the invention is within the technological arts; and (2) whether the invention produces a useful, concrete, and tangible result.

As to the first prong, for a claimed invention to be statutory the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the “progress of science and the useful arts” (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be nonstatutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

As to the second prong, for a claimed invention to be statutory the claimed invention must produce a useful, concrete, and tangible result.

As to the first prong, in the present case, even though a practical application of providing an executive reply for a job-seeker to seek additional information regarding apposition, the claimed system lacks a tie to any technological art. The system claims do not recite any limitations that involve a technology, and the claimed system does not require use of any technology to implement the invention. As to technological arts recited in the preamble, mere recitation in the preamble, i.e., intended or field of use, or mere implication of employing a machine or article of manufacture to perform some or all of the recited steps does not confer statutory subject matter to an otherwise abstract idea unless there is positive recitation in the claim as a whole to breathe life and

meaning into the preamble. In the present application, none of the recited process steps are directed to anything in the technological arts as explained in the preceding paragraph with the exception of the recitation in the preamble that the process is "Internet-based." Considering the claim as a whole, nothing in the body of the claim recites any structure or functionality to suggest that a computer performs the recited steps. Therefore, the preamble is interpreted as a field of use for the claimed process.

As to the second prong, in the present case, the claimed invention produces a notification and reply, i.e., concrete, used to confidentially match a job-seeker with an employer offering an employment opportunity, i.e., useful and tangible.

Therefore, although process claims 1-6 produce a useful, concrete, and tangible result, they are directed to nonstatutory subject matter because the claimed invention as a whole is not within the technological arts, as explained above.

*b. Claims 7-8*

i. Claims 7-8 are drawn to data about the job-seeker, i.e., nonfunctional descriptive material, that is merely arranged, compiled, or stored so as to be read or outputted without creating any functional interrelationship, either as part of the stored data or as part of a computer process performed by a computer. The claims are drawn to nonfunctional descriptive material alone which is not a process,



machine, manufacture, or composition of matter. Therefore, claims 7-8 are directed to nonstatutory subject matter.

*c. Claims 9-11*

The basis of this process claim rejection is set forth in a two-prong test: (1) whether the invention is within the technological arts; and (2) whether the invention produces a useful, concrete, and tangible result.

As to the first prong, for a claimed invention to be statutory the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the “progress of science and the useful arts” (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be nonstatutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

As to the second prong, for a claimed invention to be statutory the claimed invention must produce a useful, concrete, and tangible result.

As to the first prong, in the present case, even though a practical application of notifying a job-seeker is recited in process claims 9-11, the claimed process lacks a tie to any technological art. The process claims do not recite any limitations that involve a technology, and the claimed process steps do not require use of any technology to implement the invention.

Further, mere intended or nominal use of a component, albeit within the technological arts, does not confer statutory subject matter to an otherwise abstract idea if the component does not apply, involve, use, or advance the underlying process. The claimed process must utilize technology in a nontrivial manner. In the present case, process claims 9-11 do not apply, involve, or use technology. The recited steps of storing a job-seeker’s work experience, searching, notifying the job-seeker, investigating the opportunity, and possibly

disclosing identities, does not apply, involve, use, or advance the technological arts since all of the recited steps can be performed manually by hand or by use of a pencil and paper. Therefore, the claimed process does not positively recite a nontrivial use of technology.

As to the second prong, the claimed invention is a process intended to match a job-seeker with an employment opportunity; however, there are essential steps omitted and there is no result produced by the method, as claimed, that is useful, concrete, and tangible, e.g., there is no transformation of data. Also, note the 35 U.S.C. 112, second paragraph, indefiniteness rejection discussed below.

In conclusion, process claims 9-11 do not meet either the prong of the two-prong test because they do not produce a useful, concrete, and tangible result, and they are not within a technological art, as explained above. Therefore, process claims 9-11 are directed to nonstatutory subject matter.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being unclear insofar as the preamble of each claim is drawn to a system, i.e., an apparatus, whereas the body of each claim does not recite any structure to support the claimed apparatus. The “system” preamble objective is not accomplished in the body of the claims.
9. Claims 9-11 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP

Art Unit: 3623

§ 2172.01. The omitted steps are: entering the employment opportunity, matching or comparing the customized information to the employment opportunity, and identifying the job-seeker as recited in the notifying step. These steps are essential insofar as the method step of notifying cannot be accomplished without defining the employment opportunity and comparing the employment opportunity and the job-seeker profile. The disclosure sets forth the notifying step is a result of a job-seeker's match to an employment opportunity. For example, page 14, lines 6-7, matching all the executives whose profiles include the search criteria; page 17, lines 1-3, compare job postings with executive profiles and notify the executive and recruiter.

10. Claims 9-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. Claim 9, line 8, and claim 10, line 1, "the profiles" lacks clear antecedent basis in the claim because "a profile" is recited in antecedent.
- b. Claim 9, line 10, "the job-seeker identified by the search" lacks clear antecedent basis in the claim because the search step as recited does not include any basis by which the job-seeker can be identified.
- c. Claim 9, line 11, "the employment opportunity" is not positively recited in antecedent. It is unclear whether applicant is claiming a process that includes steps involving the employment opportunity.
- d. Claim 9, line 15, "the recruiter['s]" is not positively recited in the antecedent. It is unclear whether applicant is claiming a process that includes the step of a recruiter disclosing its identity.

Art Unit: 3623

e. Claim 9, lines 13, 15, and 17, it is unclear what is meant by “the identity” since the profile already includes information related to the job-seeker; and it is unclear what is meant by “disclosing the identity,” i.e., how the identities are disclosed or to what entity the identities are disclosed.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Clark (US-5164897).

Clark discloses a profile comprising customized work experience differentiated for various industries (industry selections, Ref.201b), dual job titles (generic titles from software listing and actual titles from resume), and dual industry designations (primary industry, e.g., job class and specific industry, e.g., special).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Business Wire OnNext (article, OnNext new technology to establish what’s next in the job placement evolution), Business Wire Headhunter.net (article, Headhunter.net offers best-of-breed in

Art Unit: 3623

applicant tracking), Chartier (article, The industrial engineer and the search for employment), and Lescher (article, Help wanted on the web: Improving your company's research).

Business Wire OnNext discloses an employment recruitment system comprising a job-seeker component capable of enabling access to employment positions and entry of information profile (job searcher is used to describe a job seeker's access to the site and jobseekers resume database is used to describe the information profile); a recruiter component (recruiter) and resource consultant (employer); a database component (pool of active job seekers and passive jobseekers); and a notification component (email notification of qualifying position).

Business Wire OnNext lacks three elements: the resource consultant component capable of entering additional information from interviews with job-seekers who initially match a position to be stored in the database; the notification component including security to maintain the identity of recruiter/employer confidential until release is authorized; and an executive reply component to request additional employer information and including security to maintain the identity of the job-seeker confidential until release is authorized.

Regarding the first element, Business Wire Headhunter.net teaches a resource consultant component capable of entering additional information from interviews with job-seekers (P.2, first paragraph, job-seeker profile that can be modified to include comments made by the employer or recruiter) so that interviewers can note inconsistencies or adjust job-seeker profile content to fill gaps that are discussed in an interview.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Business Wire OnNext to include the capability of entering

Art Unit: 3623

additional information, such as taught by Business Wire Headhunter.net, in order to note inconsistencies or adjust job-seeker profile content to fill gaps that are discussed in an interview.

Regarding the second element, Chartier teaches a blind ad employment recruitment system that reveals the identity of certain parties only after the employer has authorized release in order to keep the company's strategy from its competitors.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the Business Wire OnNext and Business Wire Headhunter.net combination to include release of identity of the recruiter and employer only when authorized, such as suggested by the blind ad system of Chartier, in order to keep the company's strategy from its competitors.

Regarding the third element, Lescher further teaches the use of an option link to company information at the reply of the job-seeker and at the discretion of the company. Lescher discloses at P.34, C.1, L.7-9, an option link that the job-seeker can use anonymously to access additional company information. The use of the option link does not reveal any information about the job-seeker, it is merely a portal to gain additional desired information, if available, about the employer. The employer information is provided by the employer and is presumed to be more accurate and current.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the Business Wire OnNext, Business Wire Headhunter.net, and Chartier combination to include an executive reply component such as taught by Lescher, in order to allow a job-seeker and potential employee an opportunity to access information about the employer that is accurate and current.

Regarding claim 4, Chartier further teaches the use of a recruiter intermediary between an employer and job-seeker in order to keep the identity of the employer in confidence (professional recruiter communicating with employer/hiring managers, bottom half of P.6). It is inherent in the combination that the employer would be permitted to select a recruiter, as an expedient to retain an intermediary that will perform in the best interest of the employer at an acceptable price for the service performed.

13. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Business Wire OnNext, Business Wire Headhunter.net, Chartier, and Lescher combination as applied to claim 1 above, and further in view of Clark (US-5164897).

Regarding claim 2, Clark teaches an employment recruitment system having a job-seeker profile that is customized by the resource consultant/employer (buyer determines job selection criteria, job requirements file, Ref.101).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Business Wire OnNext, Business Wire Headhunter.net, Chartier, and Lescher combination to include a customized profile, such as taught by Clark, in order to allow the resource consultant/employer to focus on job-seekers who have the qualifications particular to the position to be filled.

Regarding claim 3, Clark teaches the use of industry characteristics to obtain a job-seeker's profile. For example, Fig.2c shows job class, industry, and special selections that are selected by the job-seeker when completing a profile. The categories are used to aid in standardization of a job-seeker profile.

Art Unit: 3623

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Business Wire OnNext, Business Wire Headhunter.net, Chartier, and Lescher combination to include a profile having specific characteristics of prior employment responsive to an industry, such as taught by Clark, in order to aid in standardization of the job-seeker profiles.

14. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Business Wire OnNext, Business Wire Headhunter.net, Chartier, and Lescher combination as applied to claim 1 above, and further in view of Castaneda (article, Snagging a job off the net).

Castaneda teaches the use of number codes rather than names for concealing identity. Although the reference uses the number for the name of a job-seeker, the particular item that is being concealed is not limiting. The use of a code to conceal a position name would be effective in order to protect an employer's proprietary information. Moreover, the examiner takes official notice that the use of a number rather than a position name is a well-known expedient used throughout the human resource management industry to accurately track a job positing and avoid duplication that may occur by using only a position name.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Business Wire OnNext, Business Wire Headhunter.net, Chartier, and Lescher combination to include a job code rather than a position name, such as suggested by Castaneda, in order to conceal an employer's proprietary information, to accurately track a job posting, and to avoid duplicate postings for the same position.



Art Unit: 3623

15. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Business Wire OnNext, Business Wire Headhunter.net, Chartier, and Lescher combination as applied to claim 1 above, and further in view of Tornetta (US-4870576).

Tornetta teaches a system (200) capable of statistical analysis of the database and the searches (Ref.290) in order to analyze the data that is contained in the database and the nature of search specifications transmitted to the system. Although the system of Tornetta comprises real estate data, the data contained within the database is not critical to the statistical analysis function and as such the function would be appropriate to perform the statistical analysis of any searchable database, including employment recruiting.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Business Wire OnNext, Business Wire Headhunter.net, Chartier, and Lescher combination, such as taught by Tornetta, in order to provide an analysis of the database content and the searches transmitted to the system.

16. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Clark (US-5164897) in view of Walker (US-5884270).

Walker teaches database searching without determining the identity of a job-seeker by a second party in order to require the parties to actually meet through the matching service so that the matching service can receive the requisite payment for its services. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Clark to include hidden identity of job-seekers, such as taught by Walker, in order to avoid a second party from using the initial contact information to gain access to a job-seeker without paying the matching service for its services.

Art Unit: 3623

17. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (US-5884270) in view of Chartier (article, The industrial engineer and the search for employment).

Walker discloses storing job-seeker information (party database, Ref.255), searching without knowing the job-seeker's (party) identity (C.4, L.26-30), notifying the job-seeker (send request for authorization C.4, L.31-33), investigating employment opportunity without knowing recruiter and employer identity (party searching trusted agent database, C.4, L.26-30; communication between parties is encrypted, C.4, L.35-43), disclosing job-seeker identity upon job-seeker's authorization (controlled release of party identity, C.4, L.54-60; first-party rules for releasing identity of the first party, C.5, L.5-17), and disclosing recruiter identity upon recruiter's authorization (communication channel without revealing identity of the requestor, C.4, L.63-66; second-party rules for releasing identity of the second party, C.5, L.5-17).

Walker lacks the step of disclosing the identity of the employer upon the employer's authorization.

Chartier teaches the use of a recruiter intermediary between an employer and job-seeker in order to keep the identity of the employer in confidence (professional recruiter communicating with employer/hiring managers, bottom half of P.6).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Walker to include an added layer of identity disclosure, such as taught by Chartier, in order to keep secret from the job-seeker the employer's identity.

Regarding claim 10, the searching is "automatic" as broadly recited insofar as the search is performed using a central controller software program that compares the search query to the profiles contained in the party database (for example, see Fig.6A).

Art Unit: 3623

Regarding claim 11, the notifying step is “automatic” as broadly recited insofar as the central controller software sends communications to the party from the requestor (for example, see Fig.6B, 7-9).

### ***Conclusion***

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Bedingfield (US-6608888) teaches messaging without revealing the identity of a sending party.
- Hartman (US-5758324) teaches resume storage and retrieval used by job-seekers (applicants) and employers/recruiters (clients).
- Coopee (article, Hire.com's e-recruiter effectively relieves labor shortage) teaches an employer's additional questionnaire to be filled out by job-seeker's who pass an initial prequalification stage.
- Stevens (article, Recruiting for tomorrow) teaches a resource consultant (human resources representative, P.2 for example) that is retained by the employer.
- Wall Street Journal (article, Should job search be kept in closet) teaches the confidentiality of a job-seeker's identity unless an employer expresses serious interest.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamara L. Graysay whose telephone number is (703) 305-1918. The examiner can normally be reached on Mon - Thu and alternate Fri from 8:30am to 5:00pm.

Art Unit: 3623

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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